

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

MARY E. LENTZ,)	Cause No. 1:01-cv-599 MHW-TSB
)	
Plaintiff,)	(Judge Watson)
)	
v.)	
)	
CINCINNATI INSURANCE)	
COMPANY, <i>et al.</i>)	
)	
Defendants.)	

MOTION FOR HEARING ON BACK PAY AND FRONT PAY DAMAGES

Plaintiff, by counsel, respectfully asks this Court to set a hearing on the issue of what back pay and front pay damages Ms. Lentz is entitled to after having successfully prevailed on her intentional interference with a business relationship claim against Defendant David Balzano. Ms. Lentz would show the Court as follows:

1. On June 23, 2005 the jury in this case returned its verdicts.
2. One of the jury's verdicts found in favor of the Plaintiff, Mary Lentz, and against the Defendant, David Balzano, on Ms. Lentz's state law claim of intentional interference with a business relationship. *See* Verdict Form [Docket #156, p. 3].
3. Specifically, the jury found that Defendant Balzano acted with actual malice, that is, with knowledge that his statements were false or with reckless disregard for whether they were false or not. *See* Special Interrogatories [Docket #156, p. 1-2]; Jury Instructions at 10 [Docket #159, p. 10].
4. Additionally, the jury found that Defendant Balzano acted with actual malice by "clear and convincing" evidence. *Id.*

5. The jury awarded Ms. Lentz \$0 in compensatory damages, as defined in the jury instructions.
6. The jury instructions very clearly do not discuss the issue of back pay and front pay. *See* Jury Instructions at 13 (discussing compensatory damages) [Docket #159, p. 13].
7. During the Charging Conference, and at a sidebar between the parties before the case was submitted to the jury, the Plaintiff and Defendants, by counsel, agreed that the issue of back pay and front pay would be an issue submitted to the Court were liability found by the jury. *See, e.g.*, Transcript of Trial at 1335 (“The Court: ‘The Court is going to determine back pay.’”) [Docket #161-2, p. 2]; Transcript of Trial at 1398 (“The Court: ‘We’re striking a reference to lost wages because the Court’s going to determine that after the trial if there is a finding for the plaintiff.’”) [Docket #161-3, p. 20].
8. In this case, liability was found by the jury on Plaintiff’s claim of intentional interference with a business relationship.
9. The jury awarded \$0 in compensatory damages. However, the Court’s damages instruction rightfully withheld the issue of back pay and front pay from the jury. Accordingly, the jury appropriately did not consider back pay and front pay damages, and it is now time for this Court to consider setting such an amount.
10. Because full evidence of the Plaintiff’s back pay and front pay was not presented to the jury (because it was not an issue for the jury to consider), this Court should set a fact-finding hearing to receive the appropriate evidence to decide the amount of back pay and front pay damages Ms. Lentz is entitled to due to Defendant Balzano’s intentionally tortious conduct.

WHEREFORE, Mary Lentz, by counsel, respectfully requests this Court set a hearing to determine the amount of back pay and front pay to which Ms. Lentz is entitled in accordance with the jury's finding of liability on the intentional interference with a business relationship claim, and for all other relief just and proper in the premises.

Respectfully Submitted,

s/[Michael K. Sutherlin]
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CERTIFICATE OF SERVICE

I hereby certify that on July 8, 2005, a copy of the foregoing was filed electronically.

Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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